

TRANSMITTAL OF APPEAL BRIEF (Large Entity)Docket No.
3433In Re Application Of: **VOIGT, M., ET AL**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/552,225	10/06/2005	NGUYEN, D.	278	3723	6777

Invention: **GUARD FOR AN ELECTRIC MACHINE TOOL...****COMMISSIONER FOR PATENTS:**

Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:

06/19/2008

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Dated: 08/13/2008

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United States Patent and Trademark Office

Examiner: Nguyen, D.

Art Unit: 3723

Docket No. 3433

In re:

Applicant: VOIGT, M., et al

Serial No.: 10/552,225

Filed: October 6, 2005

APPEAL BRIEF

August 12, 2008

Hon. Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sirs:

The Appellants submit the following for their brief on appeal and respectfully request consideration of same. The Appellants request withdrawal of the rejections made and that the Application be placed in line for Allowance.

I. REAL PARTY IN INTEREST

The real party in interest in the instant application is the assignee of the application, Robert Bosch GmbH, Stuttgart, Germany.

II. RELATED APPEALS AND INTERFERENCES

The Appellants are unaware of any related appeals or interferences with regard to the application.

III. STATUS OF CLAIMS

Claims 15 through 30 are rejected. Claims 1-14 are canceled. Claims 15 through 30 are appealed.

IV. STATUS OF AMENDMENTS

A Final Office Action finally rejecting claims 15 through 30 was mailed on May 2, 2008. No amendment or other submission was filed in response to the final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 15 defines a system composed of a guard (16) and a power tool, with a rotation-prevention means (20) (page 5, first paragraph; Figs. 1 and 2). The rotation-prevention means is provided with a blocking means (32, 40) on a guard side and with a corresponding stop means (34, 42) on a power tool side and with an attachment means (28) for clamping the guard (16) to the

power tool (paragraph bridging pages 5-6; Figs. 2 through 5). The stop means (34, 42) limits rotation of the guard (16) in the event of shattering of an insertion tool (14) in an operation mode of the power tool (page 5, line 15 through page 6, line 2; Figs. 2 through 5).

Independent claim 24 defines a power tool with an electric motor located in a housing (10), the electric motor rotatably driving an insertion tool (14), wherein a rotation-prevention means (20) is provided that at least prevents the insertion tool (14) from being released in a direction of an operator (page 5, first paragraph; Fig. 1).

Independent claim 29 defines a system composed of a guard (16) and a power tool (page 5, first paragraph; Fig. 1), with a rotation-prevention means (20) which is provided with a blocking means (32, 40) on a guard side and with a corresponding stop means (34,42) on a power tool side and with an attachment means (28) for clamping the guard (16) to the power tool (paragraph bridging page 5-6; Figs. 2 through 5). The guard (16) is attached in a normal operation mode to a collar (24) by a force closure and the guard (16) is attached to the collar (24) by a form closure in the event of shattering of the insertion tool (14) (page 6, lines 3-11; Figs. 2 and 3).

VI. GROUNDΣ OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-26, 28, 29 and 30 are anticipated under 35 U.S.C. 102(b) by EP 0 973 353 to Rudolf ("Rudolf '353").
2. Whether claims 24, 25, and 27 are anticipated under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,924,635 to Rudolf et al ("Rudolf '635").

VII. ARGUMENT

1. Claims 1-26, 28, 29 and 30 are not anticipated by Rudolf '353.

The Appellants respectfully submit that the elements disclosed in Rudolf '353 differ markedly in function than the elements of the present invention.

The locking nose 31 and the corresponding notch 32 of the device disclosed in Rudolf '353 are intended to provide a coding for a mounting of a guard 14 to a grinder 10 and to assure use of the grinder 10 with a suitable guard 14 to prevent any damage of the insertion tool 13 or the grinder 10 or the operator, respectively (see Rudolf '353, column 1 lines 20-26 and column 3, lines 36-52).

In contrast, the present invention as recited in independent claims 15 and 29 relates to a system composed of a guard 16 and a power tool with a rotation-prevention means 20, which is provided with a blocking means 32, 40 on a guard side and with a corresponding stop means 34, 42 on a power tool side and with an attachment means 28 for clamping the guard 16 to the power tool, wherein

the stop means 34, 42 limits rotation of the guard 16 ***in the event of shattering of an insertion tool 14*** in an operation mode of the power tool.

Therefore, the present invention comprises a system which provides a safety mechanism in the event of an accidental shattering or bursting of an insertion tool during operation mode of the power tool. In case of high forces, which act on the guard 16, a force closure, which secures the guard 16 on a collar 24 of the power tool by means of the attachment means 28, disengages and a rotation of the guard 16 is intended. The rotation is limited by an interaction of the blocking means (stop cam, blocking lug) 32, 40 and the stop means (limiting groove, stop) 34, 42 (see specification of the present application at page 5, line 26 to page 6, line 2).

Thus, this safety mechanism provides a guard 16, which is intended to perform a forced rotation in case of an accidental shattering of the insertion tool. Furthermore, due to the design of the blocking means 32, 40, a robust catch of the guard 16, even when very high forces act on the guard 16, can be provided. Finally, the construction ensures a proper handling without possible operating errors.

Rudolf '353 only discloses a mechanism for a proper coding of a grinder 10 to the suitable guard 14. This mechanism or the provided elements 31, 32, 33 of this mechanism are not intended or appropriate for securing the guard 16 in the event of shattering of an insertion tool 13.

As shown in Fig. 2 of Rudolf '353, the barrier element 31 has a rounded edge. This edge would act on the stop of the groove 32 in case of a forced

rotation of the guard 14 if the insertion tool 13 shatters. Because of the rounded edge of the guard 14 and the extremely high forces acting on the guard 14, and therefore on the barrier element 31, this barrier element 31 would not stop the rotation of the guard 14 at the stop of the groove 32. Thus, the barrier element 31 is not suitable for securing the guard 16 on the grinder 10 or, for example, it would not limit the rotation of the guard 14 to a narrow angular range.

Furthermore, as shown in Fig. 3, the barrier element 31 is embodied as an extension of part 15 of the guard 14, and therefore is constructed as a thin layer and not intended to sustain high forces. In addition, the positioning of the barrier element 31 at the edge of the part 15 of the guard 14 does not provide a robust arrangement to stop extremely high forces (see Rudolf '353, Fig. 3 and column 2, lines 48-52).

The Rudolf '353 description and figures make very clear that the barrier element 31 is only constructed and arranged to provide a coding for the mounting of a suitable guard 14 on the corresponding grinder 10 (see Rudolf '353, Figs. 2 through 4 and column 6, lines 31-56).

Based on the foregoing distinctions, claims 15 and 29 are not anticipated by Rudolf '353. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). A prior art reference anticipates a claim only if the reference discloses every limitation of the claim. Absence from the

reference of any claimed element negates anticipation. *Row v. Dror*, 42 USPQ 2d 1550, 1553 (Fed. Cir. 1997).

In addition, Rudolf '353 provides no suggestion for integrating such a safety mechanism, which is suitable for acting in the event the insertion tool shatters.

2. Claims 24, 25, and 27 are not anticipated Rudolf '635.

Rudolf '635 reference discloses a power tool 1 provided with a guard 8. Rudolf '635 fails to disclose any mechanism which provides a security mechanism in the form of a rotation-prevention means to prevent the insertion tool from being released in the direction of an operator.

In contrast, independent claim 24 defines a power tool with an electric motor located in a housing (10), the electric motor rotatably driving an insertion tool (14), wherein a rotation-prevention means (20) is provided that at least prevents the insertion tool (14) from being released in a direction of an operator.

Therefore, claim 24 and its dependent claims 25 and 27 are not anticipated by the Rudolf '635 reference. In addition, even a combination of the two Rudolf references would not lead the practitioner to the present invention, since the combination still would not disclose or suggest all of the features of claim 15.

The Appellants submit further that neither of the Rudolf references can be considered as an appropriate reference either under, MPEP section 2131, which requires that to anticipate a claim a reference must teach every element of the

claim in as complete detail as is contained in the Appellants' claim, or under MPEP section 2143.03, since not all of Appellants' claim limitations are taught or suggested.

In view of the foregoing discussion, it is respectfully requested that the Honorable Board of Patent Appeals and Interferences overrule the final rejection of claims 15 through 30 over the cited art, and hold that Appellants' claims be allowable over such art.

Respectfully Submitted,



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VIII. CLAIMS APPENDIX

Copy of Claims Involved in the Appeal:

15. A system composed of a guard (16) and a power tool, with a rotation-prevention means (20), wherein said rotation-prevention means is provided with a blocking means (32, 40) on a guard side and with a corresponding stop means (34, 42) on a power tool side and with an attachment means (28) for clamping the guard (16) to the power tool,

wherein said stop means (34, 42) limits rotation of the guard (16) in the event of shattering of an insertion tool (14) in an operation mode of the power tool.

16. The system as recited in claim 15, wherein the rotation-prevention means (20) can be triggered by an insertion tool (14) acting on the guard (16).

17. The system as recited in claim 15, wherein the entire rotation-prevention means (20) is located inside the guard (16).

18. The system as recited in claim 15, wherein the rotation-prevention means (20) is provided so that blocking of rotation of the guard is independent of a tightening torque used to attach the guard (16).

19. The system as recited in claim 15, wherein the rotation-prevention means (20) limits rotation of the guard (16) to a narrow angular range.

20. The system as recited in claim 15, wherein the rotation-prevention means (20) entirely prevents rotation of the guard (16).

21. The system as recited in claim 15, wherein the guard (16) can be fixed in any position in a limiting groove (34).

22. The system as recited in claim 15, wherein the blocking means (32, 40) and stop means (34, 42) are aligned correspondingly to each other, so that an angular range within which rotation is permitted can be actively specified.

23. The system as recited in claim 15, wherein the blocking means (32, 40) on the guard side and the corresponding stop means (34, 42) on the power tool side are connected by a form closure.

24. A power tool with an electric motor located in a housing (10), the electric motor rotatably driving an insertion tool (14), wherein a rotation-prevention means (20) is provided that at least prevents the insertion tool (14) from being released in a direction of an operator.

25. The power tool as recited in claim 24, wherein the rotation-prevention means (20) includes a stop means (34, 42) for the blocking means (32, 40) that corresponds with a blocking means (32, 40) for a guard (16).

26. The power tool as recited in claim 24, wherein a collar (24) includes an insertion groove (36) with a limiting groove (34) located at an angle thereto.

27. The power tool as recited in claim 24, wherein a stop (42) that projects outward at an angle is provided on the housing (10).

28. An angle grinder with a grinding disc, wherein the grinding disc is covered at least in some areas by a guard (16) as recited in claim 15.

29. A system composed of a guard (16) and a power tool, with a rotation-prevention means (20) which is provided with a blocking means (32, 40) on a guard side and with a corresponding stop means (34, 42) on a power tool side and with an attachment means (28) for clamping the guard (16) to the power tool,

wherein the guard (16) is attached in a normal operation mode to a collar (24) by a force closure and the guard (16) is attached to the collar (24) by a form closure in the event of shattering of the insertion tool (14).

30. The system as recited in claim 19, wherein the narrow angular range has an angle, which is greater than 0°.

IX. EVIDENCE APPENDIX.

None.

X. RELATED PROCEEDINGS APPENDIX.

None.